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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 170103009-7300-02]

RIN 0694 – AH28

Removal of Certain Persons from the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by removing seven persons under ten entries from the Entity List. This rule removes four persons listed under

the destination of Germany, one person listed under the destination of Hong Kong, one person listed under the destination of India, one person listed under the destination of Singapore, one person listed under the destination of Switzerland, and two persons under the destination of the United Arab Emirates from the Entity List. The three additional entries are being removed to account for two persons listed under more than one destination on the Entity List. All seven of the removals are the result of requests for removal received by BIS pursuant to the section of the EAR used for requesting removal or modification of an Entity List entity and a review of information provided in the removal requests in accordance with the procedure for requesting removal or modification of an Entity List entity.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Email: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to Part 744) identifies entities and other persons reasonably believed to be involved, or to pose a significant risk of being or becoming involved,

in activities contrary to the national security or foreign policy interests of the United States. The EAR imposes additional license requirements on, and limits the availability of most license exceptions for, exports, reexports, and transfers (in-country) to those listed. The “license review policy” for each listed entity or other person is identified in the License Review Policy column on the Entity List and the impact on the availability of license exceptions is described in the *Federal Register* notice adding entities or other persons to the Entity List. BIS places entities and other persons on the Entity List pursuant to sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote.

ERC Entity List Decisions

Removal from the Entity List

This rule implements a decision of the ERC to remove the following ten entries from the Entity List on the basis of removal requests received by BIS: Industrio GmbH, Martin Hess, Peter Duenker, and Wilhelm “Bill” Holler, all located in Germany; Frank Genin, located in Hong Kong and the U.A.E. (which accounts for two of the entries this final rule removes); Beaumont Trading AG, located in India, Switzerland, and the U.A.E. (which accounts for three of the entries this final rule removes); and Amanda Sng, located in Singapore. These seven persons

under ten entries were added to the Entity List on March 21, 2016 (see 81 FR 14958). The ERC decided to remove these seven persons under ten entries based on information received by BIS pursuant to § 744.16 of the EAR and further review conducted by the ERC.

This final rule implements the decision to remove the following four entities located in Germany, one entity located in Hong Kong, one entity located in India, one entity located in Singapore, one entity located in Switzerland, and two entities located in the U.A.E. from the Entity List:

Germany

(1) Industrio GmbH,

Dreichlinger Street 79, Neumarkt, 92318 Germany;

(2) Martin Hess,

Dreichlinger Street 79, Neumarkt, 92318 Germany;

(3) Peter Duenker, a.k.a., the following alias:

-Peter Dunker.

Dreichlinger Street 79, Neumarkt, 92318 Germany; and

(4) Wilhelm “Bill” Holler,

Dreichlinger Street 79, Neumarkt, 92318 Germany.

Hong Kong

(1) Frank Genin, a.k.a., the following one alias:

-Franck Genin.

RM 1905, 19/F, Nam Wo Hong Bldg., 148 Wing Lok Street, Sheung Wang, Hong Kong (See alternate addresses under U.A.E.).

India

(1) Beaumont Trading AG, a.k.a., the following one alias:

-Beaumont Tradex India.

412 World Trade Center, Conaught Place, New Delhi – 110001, India; and 4th Floor Statesman House Building, Barakhamba Road, New Delhi 11001, India; and Express Towers, 1st Floor, Express Building, 9-10 Bahadurshah Zafar Marg, New Delhi-12, India (See alternate addresses under Switzerland and U.A.E.).

Singapore

(1) Amanda Sng,

211 Henderson Road, #13-02 Henderson Industrial Park, Singapore 159552.

Switzerland

(1) Beaumont Trading AG, a.k.a., the following one alias:

-Beaumont Tradex India.

Haldenstrasse 5, Baar (Zug Canton), CH 6342 Switzerland (See alternate addresses in India and the U.A.E.).

United Arab Emirates

(1) Beaumont Trading AG, a.k.a., the following one alias:

-Beaumont Tradex India.

DMCC Business Center, 49 Almas Tower – JLT Dubai, U.A.E. (See alternate addresses in India and Switzerland); and

(2) Frank Genin, a.k.a., the following one alias:

-Franck Genin.

Villa No. 6 AL WASL RD, 332/45b Jumeira 1, Dubai, Dubai 25344, U.A.E.; and Suite 608 Atrium Center, Bank St., Bur Dubai, Dubai, U.A.E., P.O. Box 16048; and Suite 706 Atrium Center Bank Street Bur Dubai, Dubai U.A.E.; and P.O. Box 10559 Ras Al Khaimah, U.A.E.; and P.O. Box 25344 Bur Dubai, Dubai, U.A.E.; and 2nd Floor, #202 Sheik Zayed Road Dubai POB 25344 U.A.E.; and P.O. Box 28515, Dubai, U.A.E.; and 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E. P.O.Box 16048; and BC2-414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; and G1/RAK Free Trade Zone RAK - U.A.E.; and G-17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E. (See alternate address under Hong Kong).

The removal of the persons referenced above, which was approved by the ERC, eliminates the existing license requirements in Supplement No. 4 to part 744 for exports, reexports and transfers (in-country) to these entities. However, the removal of these persons

from the Entity List does not relieve persons of other obligations under part 744 of the EAR or under other parts of the EAR. Neither the removal of an entity from the Entity List nor the removal of Entity List-based license requirements relieves persons of their obligations under General Prohibition 5 in § 736.2(b)(5) of the EAR which provides that, “you may not, without a license, knowingly export or reexport any item subject to the EAR to an end-user or end-use that is prohibited by part 744 of the EAR.” Additionally, this removal does not relieve persons of their obligation to apply for export, reexport or in-country transfer licenses required by other provisions of the EAR. BIS strongly urges the use of Supplement No. 3 to part 732 of the EAR, “BIS’s ‘Know Your Customer’ Guidance and Red Flags,” when persons are involved in transactions that are subject to the EAR.

Export Administration Act of 1979

Although the Export Administration Act of 1979 expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 4, 2016, 81 FR 52587 (August 8, 2016), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act of 1979, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222, as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to Jasmeet_K._Seehra@omb.eop.gov, or by fax to (202) 395-7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. For the seven persons under ten entries removed from the Entity List in this final rule, pursuant to the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), BIS finds good cause to waive requirements that this rule be subject to notice and the opportunity for public comment because it would be contrary to the public interest.

In determining whether to grant a request for removal from the Entity List, a committee of U.S. Government agencies (the End-User Review Committee (ERC)) evaluates information about and commitments made by listed persons requesting removal from the Entity List, the nature and terms of which are set forth in 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b). The information, commitments, and criteria for this extensive review were all established through the notice of proposed rulemaking and public comment process (72 FR 31005 (June 5, 2007) (proposed rule), and 73 FR 49311 (August 21, 2008) (final rule)). These seven removals under ten entries have been made within the established regulatory framework of the Entity List. If the rule were to be delayed to allow for public comment, U.S. exporters may face unnecessary economic losses as they turn away potential sales to the entities removed by this rule because the customer remained a listed person on the Entity List even after the ERC approved the removal pursuant to the rule published at 73 FR 49311 on August 21, 2008. By publishing without prior notice and comment, BIS allows the applicants to receive U.S. exports immediately because the applicants already have received approval by the ERC pursuant to 15 CFR part 744, Supplement No. 5, as noted in 15 CFR 744.16(b).

Removals from the Entity List granted by the ERC involve interagency deliberation and result from review of public and non-public sources, including sensitive law enforcement information and classified information, and the measurement of such information against the

Entity List removal criteria. This information is extensively reviewed according to the criteria for evaluating removal requests from the Entity List, as set out in 15 CFR part 744, Supplement No. 5 and 15 CFR 744.16(b). For reasons of national security, BIS is not at liberty to provide to the public detailed information on which the ERC relied to make the decisions to remove these entities. In addition, the information included in the removal request is information exchanged between the applicant and the ERC, which by law (section 12(c) of the Export Administration Act of 1979), BIS is restricted from sharing with the public. Moreover, removal requests from the Entity List contain confidential business information, which is necessary for the extensive review conducted by the U.S. Government in assessing such removal requests.

Section 553(d) of the APA generally provides that rules may not take effect earlier than thirty (30) days after they are published in the Federal Register. BIS finds good cause to waive the 30-day delay in effectiveness under 5 U.S.C. 553(d)(1) because this rule is a substantive rule which relieves a restriction. This rule's removal of seven persons under ten entries from the Entity List removes requirements (the Entity-List-based license requirement and limitation on use of license exceptions) on these seven persons being removed from the Entity List. The rule does not impose a requirement on any other person for these removals from the Entity List.

No other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required under the APA or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. As a result, no final regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730-774) is amended as follows:

PART 744 – [AMENDED]

1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 4, 2016, 81 FR 52587 (August 8, 2016); Notice of September 15, 2016, 81 FR 64343 (September 19, 2016); Notice of November 8, 2016, 81 FR 79379 (November 10, 2016); Notice of January 13, 2017, 82 FR 6165 (January 18, 2017).

Supplement No. 4 to Part 744—[AMENDED]

2. Supplement No. 4 to Part 744 is amended:

a. By removing, under Germany, four German entities, “Industrio GmbH, Dreichlinger Street 79, Neumarkt, 92318 Germany”; “Martin Hess, Dreichlinger Street 79, Neumarkt, 92318 Germany”; “Peter Duenker, a.k.a., the following alias: -Peter Dunker. Dreichlinger Street 79, Neumarkt, 92318 Germany”; and “Wilhelm “Bill” Holler, Dreichlinger Street 79, Neumarkt,

92318 Germany”;

b. By removing, under Hong Kong, one Hong Kong entity, “Frank Genin, a.k.a., the following one alias: -Franck Genin. RM 1905, 19/F, Nam Wo Hong Bldg., 148 Wing Lok Street, Sheung Wang, Hong Kong (See alternate addresses under U.A.E.)”;

c. By removing, under India, one Indian entity, “Beaumont Trading AG, a.k.a., the following one alias: -Beaumont Tradex India. 412 World Trade Center, Conaught Place, New Delhi – 110001, India; and 4th Floor Statesman House Building, Barakhamba Road, New Delhi 11001, India; and Express Towers, 1st Floor, Express Building, 9-10 Bahadurshah Zafar Marg, New Delhi-12, India (See alternate addresses under Switzerland and U.A.E.)”;

d. By removing, under Singapore, one Singaporean entity, “Amanda Sng, 211 Henderson Road, #13-02 Henderson Industrial Park, Singapore 159552”;

e. By removing under Switzerland, one Swiss entity, “Beaumont Trading AG, a.k.a., the following one alias: -Beaumont Tradex India. Haldenstrasse 5, Baar (Zug Canton), CH 6342 Switzerland (See alternate addresses in India and the U.A.E.)”; and

f. By removing under the United Arab Emirates, two Emirati entities, “Beaumont Trading AG, a.k.a., the following one alias: -Beaumont Tradex India. DMCC Business Center, 49 Almas Tower – JLT Dubai, U.A.E. (See alternate addresses in India and Switzerland)”;

and

“Frank Genin, a.k.a., the following one alias: -Franck Genin.

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POB 25344 U.A.E.; and P.O. Box 28515, Dubai, U.A.E.; and 202 B Sama Tower Sheikh Tayed Road #3 Dubai, U.A.E. P.O.Box 16048; and BC2-414, RAK Free Trade Zone P.O. Box 16048 Ras Al Khaimah, U.A.E.; and G1/RAK Free Trade Zone RAK - U.A.E.; and G-17 Sheikh Tayed Road #3 Ras Al Khaimah Free Trade Zone, Dubai, U.A.E. (See alternate address under Hong Kong)".

Dated: March 24, 2017

Matthew S. Borman

Deputy Assistant Secretary

for Export Administration

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